



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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CC:TEGE:EOEG:ET2

[REDACTED]

Dear [REDACTED]:

I apologize for the delay in responding to your letter dated July 16, 2002, to Congressman Joseph M. Hoeffel concerning the status of your Federal Insurance Contributions Act (FICA) tax refund claim you made for your services as a medical resident from [REDACTED] through [REDACTED]. I hope the following information is helpful to you.

We received many refund claims as a result of the Eighth Circuit's decision in *State of Minnesota v Apfel*. In *State of Minnesota*, the Eighth Circuit held that medical residents employed in residency programs the University of Minnesota sponsored were students within the meaning of the Social Security Act. Therefore, they did not need to pay FICA tax on their wages. Many institutions, and some individuals, have filed claims for refund as a result of this decision.

These refund claims are based on section 3121(b)(10) of the Internal Revenue Code. That section provides that services students perform are excepted from FICA taxes. A "student" is defined as an individual who is employed by a school, college, or university at which the individual is enrolled and regularly attending classes.

We are considering a representative sample of refund claims involving medical and dental residents and interns. We hope to apply our conclusions from these cases to refund claims involving similarly situated residency programs. We believe this approach will ensure consistent application of the law and minimize the taxpayer burden that would result if we examined each claim. We hope to complete this process within the next few months. Then we will grant or deny claims, as appropriate.

Under the Freedom of Information Act, we will make this letter available to the public after we delete names, addresses, and other identifying information.

If we can assist you further in this matter, please contact me or [REDACTED] of this office at [REDACTED].

Sincerely,
LYNNE CAMILLO
Chief, Employment Tax Branch 2
Division Counsel/Associate Chief Counsel
(Tax Exempt and Government Entities)